

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

David JONES, JR.,

Plaintiff,

v.

James TAYLOR, et. al,

Defendants.

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CIVIL ACTION NO. 5:09-CV-391 (MTT)

ORDER

This matter is before the Court on the Recommendation to Grant (Doc. 73) (the “Recommendation”) of United States Magistrate Judge Thomas Q. Langstaff.¹ The Magistrate Judge, having reviewed Defendant Ayman Ali’s Motion for Summary Judgment (Doc. 38) (the “Motion”), recommends granting the Motion because the Plaintiff failed to establish he suffered from a serious medical need and there was no evidence Defendant Ali acted with deliberate indifference to a known serious medical need. The Magistrate Judge also found that the Plaintiff failed to establish that any delay in treatment worsened his condition, and, specifically, that there was no evidence that the extraction of three teeth was caused by any delay in treatment. The Plaintiff filed an objection to the Recommendation (Docs. 74 & 75) (the “Objection”). Pursuant to 28 U.S.C. § 636(b)(1), the Court has thoroughly considered the Objection and has made a de novo determination of the portions of the Recommendation to which the Plaintiff objects.

¹ The order also denied the Plaintiff’s Motion to Compel.

The Court accepts and adopts the findings, conclusions and recommendations of the Magistrate Judge with some clarification. The Court agrees that the Plaintiff has not come forward with sufficient evidence that his loss of three teeth over two years later was proximately caused by the relatively brief delay in treatment alleged in his complaint. Clearly, this would require expert testimony. However, this alone would not be fatal to the Plaintiff's case in its entirety because he still could recover, at the very least, nominal damages. However, the Court agrees with the Magistrate Judge's determination that Defendant Ali did not commit a constitutional violation because the Plaintiff did not have a serious medical need and that Defendant Ali did not act with deliberate indifference to a known serious medical need.

Accordingly, because the Plaintiff did not have a serious medical need and Defendant Ali did not act with deliberate indifference to a known serious medical need, the Motion is **GRANTED**.

SO ORDERED, this the 28th day of March, 2011.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT

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